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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,851	02/07/2005	Wolfgang Fuchs	3190	4408
Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743				
EXAMINER				
PRONE, JASON D				
ART UNIT		PAPER NUMBER		
3724				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/523,851

**Applicant(s)**

FUCHS ET AL.

**Examiner**

Jason Daniel Prone

**Art Unit**

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-9 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-3 and 5-9 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)  
3) ☐ Information Disclosure Statement(s) (PTO/CDC)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

It is noted that claim 5 is dependant off of a cancelled claim, however, for this action only claim 5 will be treated as if it was dependant off of claim 1.

#### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: on line 5, the phrase "the form" should be replaced with "a form".

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-3 and 5-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

On line 6 of claim 1, the phrase "circumferential collar" is unclear. In order to be considered circumferential, the collar must extend around the entire circumference. Looking at Figure 3, the edge adjacent to items 8 and 9 makes up a portion of the circumference but does not incorporate any of the structure labeled 6. Braunbach et al. disclose a collar that is a circumferential collar.

Claim 5 is dependant off of a cancelled claim.

With regards to claims 7 and 8, the phrase "connecting elements" is unclear. It is uncertain if these connecting elements represent the same structure as the connecting elements now disclosed in claim 1.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braunbach et al. (5,678,314) in view of Fushiya et al. (D326,399) and EP 1428636. See Appendix A for examiner added reference numerals. Braunbach et al. disclose the invention, with regards to claim 1, including a base plate for a circular saw (11) comprised of a metal sheet (Column 5 lines 34-39), a plurality of reinforcing elements that protrude out from a plane of the metal sheet (Fig. 2), at least one of the reinforcing elements is embodied in the form of a lateral stop surface (650), another of the reinforcing elements is configured as an additional collar surrounding an opening having a second connecting element (975), and having attaching elements that protrude out from the plane and are capable for fastening the base plate to a miter angle (800), and the metal sheet is configured as a stamped and bent metal sheet (Column 5 lines 34-39), and the entire base plate is embodied in one piece (11).

In regards to claims 6, 7, and 9, Braunbach et al. disclose another of the plurality of reinforcing elements is embodied in the form of a crease (700), projections (900) and a threaded dome (950) for guiding and positioning a parallel cutting guide (15), a guide channel (70), and a stamping and bending process (Column 5 lines 34-39).

However, with regards to claims 1, 3, 7, and 8, Braunbach et al. fail to disclose the metal sheet is an aluminum alloy, the collar having a first connecting element, connecting elements for an angle adjustment and the connecting elements have bores that define a rotation axis for an angle adjustment.

Fushiya et al. teach it is old and well known in the art of circular saw base plates to incorporate the collar having a first connecting element (Fig. 1), connecting elements for an angle adjustment (Fig. 2) and the connecting elements have bores that define a rotation axis for the angle adjustment (Fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Braunbach et al. with the connecting elements, as taught by Fushiya et al., to allow the user to adjust the angle of the saw and because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

EP 1428636 teaches that it is old and well known in the art of power tool base plates to incorporate an aluminum alloy (lines 1-2 of [0032]). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Braunbach et al. with an aluminum alloy base, as taught by EP 1428636, to reduce the weight and because all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results.

With regards to claims 2 and 5, Braunbach et al. in view of EP 1428636 disclose the invention but are silent with respect to thickness dimensions. However, it is clear that the thickness of Braunbach et al. would be on the same order as the claim thicknesses. On page 6 of the specification, applicant states "stamped components typically require material thicknesses of greater than 5mm". However the word "typically" allows one to interpret the fact that typical thicknesses are above 5mm but could be below 5mm (i.e. 3mm). In light of this and EP 1428636 clearly discloses that weight of the base plate is an issue (lines 1-2 of [0032]), one of ordinary skill in the art would have clearly reduced the thickness for another way of reducing the weight of the base. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a 3mm thickness, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Also, it would have been obvious to one of ordinary skill to experiment with reduced/increased thicknesses to be able to perform specific intended uses better. Also, it is noted that there are a limited number of thicknesses available that could be used for a base plate to a person of ordinary skill in the art. It would have been obvious to try/experiment with all dimensions within the range of limited choices. The claim would have been obvious because a person of ordinary skill has good reason to pursue the known options within technical grasp. If this leads to the anticipated success, it is likely the product is not of innovation but of ordinary skill and common sense. In this

case, it is common sense to reduce the thickness to reduce the weight or to use less material in the manufacturing of the base plate.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-3 and 5-9 have been considered but are moot in view of the new ground(s) of rejection. Item 975 of Appendix A, has a collar which is just the inner rim of the hole. No structure of the collar is disclosed and therefore, the inner rim is considered a collar.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Daniel Prone whose telephone number is (571)272-4513. The examiner can normally be reached on 7:30-5:00 (M-F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

20 November 2008

/Jason Daniel Prone/

Primary Examiner, Art Unit 3724



Appendix A

